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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,244	08/21/2001	Paul G. Allen	4000.2.51	6487
32641	7590	12/01/2005	EXAMINER	
DIGEO, INC C/O STOEL RIVES LLP 201 SOUTH MAIN STREET, SUITE 1100 ONE UTAH CENTER SALT LAKE CITY, UT 84111			LAMBRECHT, CHRISTOPHER M	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/934,244

Applicant(s)

ALLEN ET AL.

Examiner

Christopher M. Lambrecht

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-65 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-65 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/26/02; 9/16/02</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

1. Claims **19, 42, 49, 51, and 52** are objected to because of the following informalities:

claim **19** should be changed to depend from claim 13;

claim **42** should be changed to depend from claim 41;

claim **49** should be changed to depend from claim 43;

on line 6 of claim **51**, replace “the” (second occurrence) with --an--; and

on line 1 of claim **52**, insert --the-- between “wherein” and “buffering”.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims **1-6, 8-10, 13-18, 21-23, 25, 26, 29-36, 38-40, 43-48, 51-53, 55, 56, and 59-65** are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication No. 2001/0038690 by Palmer et al. (hereinafter “Palmer”).

Regarding claims **1, 31, and 63**, Palmer discloses an interactive television system (fig. 1) and corresponding method for mitigating interruptions during television viewing (¶0066), the system comprising:

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a tuner (set-top box [STB] 135, fig. 1) that receives a television signal from a signal source (head-end 100, fig. 1; ¶¶0023-25);

a video controller (STB 135, fig. 1) that displays the television signal on a display device (TV 137, fig. 1; ¶0024);

a detection component (communications gateway [CG] 150, fig. 1; 230B in fig. 2) that detects a request from a remote device (CG 210A, fig. 2) to establish communication with the interactive television system (¶0040); and

a buffering component (buffer/recorder) that automatically buffers the television signal for subsequent playback after a user responds to the request (¶¶0047-48).

As to claims 2 and 32, Palmer discloses the system and corresponding method of claims 1 and 31, further comprising:

a prompting component that prompts a user to accept or reject the request (¶0052); and

a communication component (CG 150) that, in response to the user accepting the request, establishes communication with the remote device (*i.e.*, call is answered, ¶0052).

As to claims 3 and 33, Palmer discloses the system and corresponding method of claims 2 and 32, further comprising:

a playback component (buffer/recorder, ¶0048) that, in response to the communication being terminated, automatically plays back the television signal (¶0065) being buffered from a point in time at which the request was detected (¶0063, where configuration specifies recording/buffering option upon reception of call indication).

As to claims 4 and 34, Palmer discloses the system and corresponding method of claims 2 and 32, further comprising:

a playback component (buffer/recorder, ¶0048) that, in response to the communication being terminated, automatically plays back the television signal (¶0065) being buffered from a point in time at

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which the request was accepted (§0063, where configuration specifies recording/buffering option upon detection of off-hook condition).

As to **claims 5 and 35**, Palmer discloses the system and corresponding method of claims 2 and 32, further comprising:

a playback component that, in response to a user command, plays back the television signal being buffered while the communication is in progress (manual control of “resume play,” §§0050, 0065).

As to **claims 6 and 36**, Palmer discloses the system and corresponding method of claims 1 and 31, further comprising:

a playback component that, in response to the user rejecting the request (ignore call, §0052), automatically plays back the television signal being buffered from a point in time at which the request was detected (see rejection of claims 3 and 33).

As to **claims 8 and 38**, Palmer discloses the system and corresponding method of claims 1 and 31, wherein the buffering component comprises:

an encoder that encodes the television signal (digital VCR, §0048); and

a storage device that stores the encoded television signal (digital VCR, §0048).

As to **claims 9 and 39**, Palmer discloses the system and corresponding method of claims 2 and 32, further comprising:

an identification component (CG 150) that identifies a caller associated with the remote device using information contained within the request (§§0058-59, 0056);

wherein the prompting component further notifies the user (§0041) of the interactive television system concerning the identity of the caller (§§0058-59).

As to **claims 10 and 40**, Palmer discloses the system and corresponding method of claims 1 and 31, wherein the request comprises a request to establish an audio communication channel (*i.e.*, voice/telephone call, §0027).

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Regarding claims **13, 43, and 64**, Palmer discloses an interactive television system (fig. 1) and corresponding method for mitigating interruptions during television viewing (§0066), the system comprising:

a tuner (set-top box [STB] **135**, fig. 1) that receives a television signal from a signal source (head-end **100**, fig. 1; §§0023-25);

a video controller (STB **135**, fig. 1) that displays the television signal on a display device (TV **137**, fig. 1; §0024);

a detection component (communications gateway [CG] **150**, fig. 1; **230B** in fig. 2) that detects a request from a remote device (CG **210A**, fig. 2) to establish communication with the interactive television system (§0040);

a prompting component (CG **150**) that prompts the user to accept or reject the request (§0052);
and

a buffering component (buffer/recorder) that, in response to the user accepting the request, automatically buffers the television signal for subsequent playback after a user responds to the request (§§0047-48).

As to claims **14 and 44**, Palmer discloses the system and corresponding method of claims 13 and 43, further comprising:

a communication component (CG **150**) that establishes communication with the remote device in response to the user accepting the request (*i.e.*, call is answered, §0052).

As to claims **15 and 45**, Palmer discloses the system and corresponding method of claims 14 and 44, further comprising:

a playback component (buffer/recorder, §0048) that, in response to the communication being terminated, automatically plays back the television signal (§0065) being buffered from a point in time at

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which the request was accepted (§0063, where configuration specifies recording/buffering option upon detection of off-hook condition).

As to claims **16 and 46**, Palmer discloses the system and corresponding method of claims 13 and 43, wherein the buffering component comprises:

an encoder that encodes the television signal (digital VCR, §0048); and

a storage device that stores the encoded television signal (digital VCR, §0048).

As to claims **17 and 47**, Palmer discloses the system and corresponding method of claims 13 and 43, further comprising:

an identification component (CG 150) that identifies a caller associated with the remote device using information contained within the request (§0058-59, 0056);

wherein the prompting component further notifies the user (§0041) of the interactive television system concerning the identity of the caller (§0058-59).

As to claims **18 and 48**, Palmer discloses the system and corresponding method of claims 13 and 43, wherein the request comprises a request to establish an audio communication channel (*i.e.*, voice/telephone call, §0027).

Regarding claims **21, 51, and 65**, Palmer discloses a system (fig. 1) and corresponding method for mitigating interruptions during television viewing, the system comprising:

a tuner (set-top box [STB] 135, fig. 1) that receives a television signal from a signal source (head-end 100, fig. 1; §0023-25);

a video controller (STB 135, fig. 1) that displays the television signal on a display device (TV 137, fig. 1; §0024);

a network interface (CMTS 107, fig. 1; 250B in fig. 2) that sends a request to a remote device (CG 210B, fig. 2) to establish communication between the remote device and the interactive television system (§0040); and

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a buffering component (buffer/recorder) that automatically buffers the television signal for subsequent playback after completion of the communication (§§0047-48).

As to claims **22 and 52**, Palmer discloses the system and corresponding method of claims 21 and 51, wherein the buffering component automatically buffers the television signal in response to the request being sent (§0063, where configuration specifies recording/buffering option upon reception of call indication).

As to claims **23 and 53**, Palmer discloses the system and corresponding method of claims 21 and 51, wherein the buffering component automatically buffers the television signal in response to the request being accepted by the remote device (§0063, where configuration specifies recording/buffering option upon detection of off-hook condition).

As to claims **25 and 55**, Palmer discloses the system and corresponding method of claims 21 and 51, further comprising:

a communication component (CG 150) that, in response to the request being accepted, establishes communication with the interactive television system (*i.e.*, call is answered, §0052); and

a playback component (buffer/recorder, §0048) that, in response to the communication being terminated, automatically plays back the television signal (§0065) being buffered from a point in time at which the request was accepted (§0063, where configuration specifies recording/buffering option upon reception of call indication).

As to claims **26 and 56**, Palmer discloses the system and corresponding method of claims 21 and 51, further comprising:

a communication component (CG 150) that, in response to the request being accepted, establishes communication with the remote device (*i.e.*, call is answered, §0052); and

a playback component (buffer/recorder, §0048) that, in response to the communication being terminated, automatically plays back the television signal (§0065) being buffered from a point in time at

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which the request was accepted (§0063, where configuration specifies recording/buffering option upon detection of off-hook condition).

As to **claims 29 and 59**, Palmer discloses the system and corresponding method of claims 21 and 51, further comprising:

a communication component (CG 150) that, in response to the request being accepted, establishes communication with the remote device (*i.e.*, call is answered, §0052); and

a playback component that, in response to a user command, plays back the television signal being buffered while the communication is in progress (manual control of “resume play”, §§0050, 0065).

As to **claims 30 and 60**, Palmer discloses the system and corresponding method of claims 21 and 51, wherein the buffering component comprises:

an encoder that encodes the television signal (digital VCR, §0048); and

a storage device that stores the encoded television signal (digital VCR, §0048).

Regarding **claims 61 and 62**, Palmer discloses an interactive television system (fig. 1) and corresponding method for mitigating interruptions during television viewing (§0066), the system comprising:

a tuner (set-top box [STB] 135, fig. 1) that receives a television signal from a signal source (head-end 100, fig. 1; §§0023-25);

a video controller (STB 135, fig. 1) that displays the television signal on a display device (TV 137, fig. 1; §0024);

a detection component (communications gateway [CG] 150, fig. 1; 230B in fig. 2) that detects a request from a remote device (CG 210A, fig. 2) to establish communication with the interactive television system (§0040);

a buffering component (buffer/recorder) that automatically buffers the television signal for subsequent playback after a user responds to the request (§§0047-48);

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an identification component (CG 150) that identifies a caller associated with the remote device using information contained within the request (§§0058-59, 0056);

a prompting component (CG 150) that notifies a user (§0041) of the interactive television system concerning the identity of the caller (§§0058-59) and prompts the user to accept or reject the request (§0052);

a communication component (CG 150) that, in response to the user accepting the request, establishes communication with the remote device (*i.e.*, call is answered, §0052); and

a playback component (buffer/recorder, §0048) that, in response to the communication being terminated, automatically plays back the television signal (§0065) being buffered from a point in time at which the request was accepted (§0063, where configuration specifies recording/buffering option upon reception of call indication).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7, 24, 37, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Palmer in view of U.S. Patent Application Publication No. 2002/0172330 by Brunelle et al. (hereinafter “Brunelle”).

Regarding claims 7, 24, 37, and 54, Palmer discloses the system and corresponding method of claims 1, 21, 31, and 51, but fails to disclose automatically playing back the buffered television signal when the request is (rejected) not accepted within an established time interval, as claimed.

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In an analogous art, Brunelle discloses a playback component that, in response to (rejecting) not accepting the request within an established time interval, automatically plays back the television signal being buffered from a point in time at which the request was detected (§§0049-56), thus providing convenience to the user by invoking a default decision when the subscriber is unwilling or unable to respond to the prompt.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Palmer such that the playback component, in response to (rejecting) not accepting the request within an established time interval, automatically plays back the television signal being buffered from a point in time at which the request was detected, as taught by Brunelle, for the benefit of providing the user a more convenient system.

6. Claims 11, 12, 19, 20, 27, 28, 41, 42, 49, 50, 57, and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Palmer.

Regarding claims 11, 12, 19, 20, 27, 28, 41, 42, 49, 50, 57, and 58, Palmer discloses the system and corresponding method of claims 1, 13, 21, 31, 43, and 51, further comprising a playback component that, in response to a user responding to the request (*i.e.*, establishment of communication), automatically plays back the television signal being buffered (§0065). However, Palmer fails to disclose the playback component, during automatic playback of the buffered television signal, resumes display of a real-time television signal from the signal source in response to a user command; and modified-rate-playback, as claimed.

Official notice is taken of the fact that resuming real-time playback of a buffered television through modified-rate-playback in response to a user issuing a transport control command is well known in the art and provides convenience to the user by, *e.g.*, enabling the user to resume watching live content.

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Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Palmer such that the playback component, during automatic playback of the buffered television signal, resumes display of a real-time television signal from the signal source in response to a user command; and playing back the buffered television signal at a modified rate in response to a transport control, for the benefit of providing the user a more convenient system.

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Conclusion

7. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Lambrecht whose telephone number is (571) 272-7297. The examiner can normally be reached on 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher M Lambrecht
Examiner
Art Unit 2611

cml



**HAI TRAN
PRIMARY EXAMINER**